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### **GUIDELINES FOR APPEALING AN EXPULSION DECISION OF THE BOARD February 2008**

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In accordance with the *Education Act* and its Regulations, an appeal of a school board expulsion decision is to the Child and Family Services Review Board (the “CFSRB”). The CFSRB has its own Rules of Procedures for hearings conducted under the *Education Act*. A copy of these Rules of Procedures can be obtained from the CFSRB directly (general inquiry: 416-327-4673).

The following is a guideline to an appeal of a school board expulsion:

#### **Who may appeal an expulsion?**

The following persons may appeal the Board’s decision to expel a student, whether the student is expelled from his or her school only or from all schools of the Board, to the CFSRB:

- The student’s parent or guardian, unless,
  - (i) the student is at least 18 years old, or
  - (ii) the student is 16 or 17 years old and has withdrawn from parental control.
- The student, if,
  - (i) the student is at least 18 years old, or
  - (iii) the student is 16 or 17 years old and has withdrawn from parental control.
- Such other persons as may be specified by the CFSRB.

#### **What is the timeframe to file an appeal?**

To appeal the Board’s decision to expel a student, a person who is entitled to appeal the decision shall give the CFSRB a written notice of appeal within 30 days after the date on which he or she is considered, in accordance with the rules set out in the *Education Act*, to have received the notice. The CFSRB may extend the period of time for giving the

written notice of appeal, before or after the expiry of the period, if it is satisfied that there are reasonable grounds for the extension.

### **What should the notice of appeal contain?**

The notice of appeal will:

- (a) set out the date of the decision that is being appealed;
- (b) set out the name of the school board that made the decision;
- (c) state whether the decision expels the student from his or her school only or from all schools of the board; and
- (d) be in a form acceptable to the CFSRB.

### **Who are the parties to an appeal?**

A “party” to a hearing is a person who has a legal right to participate in the hearing. The parties to an appeal are:

- The Board.
- The student, if
  - (i) the student is at least 18 years old, or
  - (ii) the student is 16 or 17 years old and has withdrawn from parental control.
- The student’s parent or guardian, if the parent or guardian appealed the decision.
- The person who appealed the decision to expel the student, if the decision was appealed by a person other than the student or the student’s parent or guardian.

### **When will the CFSRB hearing be convened?**

The CFSRB will commence a hearing within 30 days after receiving a written notice of appeal. The CFSRB may extend the period of time for commencing the hearing, before or after the expiry of the period at the request of any party to the appeal.

### **Can the student attend the hearing even if he or she is not a party?**

The student whose expulsion is being appealed has the right to be present at the hearing and to make a statement on his or her own behalf, whether or not the student is a party to the appeal.

### **What is the practice of the CFSRB in conducting its hearing?**

The practice of the CFSRB is to conduct a *trial de novo*, effectively a full re-hearing of the case.

### **Following an appeal hearing, what is the authority of the CFSRB?**

After hearing an appeal from a decision of a board, the CFSRB shall do one of the following:

- Confirm the Board's decision to expel the student;
- If the Board's decision was to expel the student from his or her school only, quash the expulsion and reinstate the student to the school; or
- If the Board's decision was to expel the student from all schools of the Board,
  - (i) change the expulsion to an expulsion from the student's school only, or
  - (ii) quash the expulsion and reinstate the student to his or her school.

### **Will the CFSRB issue a decision in writing?**

The CFSRB will provide each party, or the party's counsel or agent, with,

- (a) its decision on the appeal within 10 days after completing the hearing; and
- (b) written reasons for its decision within 30 days after completing the hearing.

### **Does the CFSRB have the authority to order a record of the expulsion be expunged or amended?**

If the CFSRB changes an expulsion from all schools of the Board to an expulsion from the student's school only, or quashes an expulsion and reinstates the student to his or her school, it may order that any record of the expulsion of the student be expunged or amended if the CFSRB considers it appropriate in the circumstances.